

EXHIBIT 9

The Honorable Barbara J. Rothstein

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON

RICHARDO SALOM, CATHERINE
PALAZZO as assignee for Ruben Palazzo, and
PETER HACKINEN, *on their own behalf and
on behalf of other similarly situated persons,*

Plaintiffs,

vs.

NATIONSTAR MORTGAGE LLC d/b/a
CHAMPION MORTGAGE

And

FEDERAL HOME LOAN MORTGAGE
ASSOCIATION, *on its own behalf and on
behalf of similarly situated persons,*

Defendants.

Case No. 2:24-cv-00444-BJR

**REVISED DECLARATION OF
COURTNEY EHINGER**

1 I, Courtney Ehinger, pursuant to 28 U.S.C. § 1746, declare under penalty of perjury the
2 following:

3 1. I am a resident of Texas, competent in all respects, and by my own free will state
4 the following true facts.

5 2. I am employed by Nationstar Mortgage LLC d/b/a Mr. Cooper ("Nationstar") as a
6 Senior Vice President, Performing Servicing. In that capacity, I am familiar with Nationstar's
7 policies and procedures for servicing loans, including various payment methods Nationstar offers,
8 the fees that were associated with making payment by telephone, and the extent to which
9 information available in Nationstar's electronic databases can be searched systematically. I am
10 authorized to make this Declaration on behalf of Nationstar.

11 3. In my capacity as Senior Vice President, I have access to Nationstar's business
12 records regarding its customers. I am familiar with the manner and procedures by which the records
13 contained in Nationstar's files were prepared and maintained. These records were prepared and
14 maintained by employees of Nationstar in the performance of their regular business duties and were
15 made by persons with knowledge of the matters they record or from information supplied by
16 persons with such knowledge. It is Nationstar's regular practice to create and maintain such records
17 in the course of its business.

18 4. I know from training and personal experience that: a) these records are made at or
19 near the time of the occurrence of the matter recorded by either a person with personal knowledge
20 of the matter or from information transmitted by persons with personal knowledge; b) that it is
21 regular practice and procedure to keep and updated these records in the course of regularly
22 conducted business activities; c) procedures are in place to assure the accuracy of those records and
23 that these records are generally accurate; and d) the regular servicing records are kept as electronic
24 data and typically include electronic data compilations and imaged documents pertaining to the

1 serviced loans.

2 5. I have full access to the servicing records of Nationstar, including the imaging
3 repository. In the ordinary course of its business, Nationstar maintains a record of all loan contracts
4 and agreements serviced by Nationstar (and its predecessors) on behalf of lenders, including
5 promissory notes and associated documents pertaining to the origination of the loan. Nationstar
6 also maintains records related to servicing such loans. Prior servicers' records for the loan were
7 integrated, boarded, and incorporated into Nationstar's systems, such that their records, including
8 loan origination documents, payment histories, communication logs, and other documents
9 concerning the loan are now integrated into Nationstar's records. It is Nationstar's regular business
10 practice to access and integrate prior servicers' records into its business records and to rely upon
11 those third-party records in day-to-day operations.

12 6. I am familiar with the allegations made by the Plaintiffs, Ricardo Salom ("Salom"),
13 Catherine Palazzo ("Palazzo"), and Peter Hackinen ("Hackinen") in this case and have reviewed
14 their loan files

15 7. The facts set forth in this Declaration are based on my review of Nationstar's
16 business records or my personal knowledge. If called as a witness, I could and would be competent
17 to testify to these facts.

18 8. Nationstar does not charge customers for payoff statements processed and delivered
19 in the ordinary course in Maryland and Washington. The ordinary course is within 7 business days
20 after receiving a written request from the consumer or someone acting on behalf of the consumer.

21 9. Numerous state laws govern the permissibility of charging fees for expediting a
22 payoff statement or payoff quote. State laws regulating fees for the preparation and expediting of a
23 payoff statement vary widely, with some states explicitly permitting such fees, others permitting
24 fees in certain circumstances, and still others prohibiting fees. Nationstar employs outside counsel

1 who, along with Nationstar's in-house legal team, track these state laws and compile a matrix
2 specifically setting forth each state's laws. Relying on this matrix, Nationstar complies with all
3 state laws when processing and delivering payoff statements.

4 10. Similarly, federal guidance governs the permissibility of charging fees for
5 expediting payoff statements with respect to certain loan types or for certain investors. Nationstar
6 follows all federal guidance on the issue.

7 11. Expedited Payoff Statement Fees are common in the industry. The amount of an
8 Expedited Payoff Statement Fee in the industry varies based on a number of factors, including,
9 investor, loan type, and the state where the collateral property is located.

10 12. Upon customer request for expedited delivery of a payoff statement, depending on
11 the state in which the customer's property is located and the type of loan, Nationstar advises the
12 customer that there is a fee for the expedited service of preparing, processing, and delivering a
13 payoff statement within 24 to 48 hours ("Expedited Payoff Statement Fee").

14 13. Neither the customer's contract nor applicable law requires Nationstar to provide a
15 customer with expedited delivery services, including the expedited delivery of a payoff statement.
16 Preparing a payoff statement on an expedited basis requires Nationstar to commit immediate human
17 resources to meet the customer's request.

18 14. The payoff quote must be accurate, cannot be automatically generated in all
19 instances, and requires coordination between multiple interested parties, departments, and third-
20 party vendors to ensure accuracy of the total amount due and owing.

21 15. Nationstar invested millions of dollars up front to develop a system—consisting of
22 both hardware and software—that enables Nationstar to collect the information needed to process
23 a payoff quote and produce that payoff quotes on an expedited basis, often as quickly as a within
24 few hours. Nationstar also incurs ongoing costs to maintain and update its technology to ensure the

system's continued integration with networks and systems necessary to obtain the information to generate accurate payoff quotes, including on an expedited basis.

16. The Expedited Payoff Statement Fee compensates Nationstar for these sunk costs, as well as for the additional time and resources necessary to accommodate the customer's request for expedited delivery of the payoff statement. The amount of time and resources necessary to prepare and process an expedited delivery fee varies, depending on the circumstances, such as whether the loan is in default, the duration of default, bankruptcy filings, and the status of foreclosure.

17. Nationstar does not prepare and process a payoff statement for expedited delivery without informing the customer that there will be a fee for the expedited service.

18. Nationstar does not assess the Expedited Payoff Statement Fee to the customer unless the customer has agreed to pay that fee to receive a payoff statement on an expedited basis.

19. The investor in Plaintiff Salom's loan is the Federal National Mortgage Association ("Fannie Mae"). Mr. Salom requested three payoff statements, two of them on an expedited basis. Nationstar did not charge Mr. Salom a fee for the payoff statement he requested in the ordinary course. Nationstar informed Mr. Salom of a \$25 Expedited Payoff Statement Fee for the two payoff statements he requested on an expedited basis. Plaintiff Salom consented to the Expedited Payoff Statement Fee. Nationstar provided two payoff statements to Mr. Salom on an expedited basis. Mr. Salom paid one \$25 Expedited Payoff Statement Fee.

20. The investor in Plaintiff Palazzo's loan is the Federal Home Loan Mortgage Corporation ("Freddie Mac"). Ms. Palazzo requested one payoff statement on an expedited basis. Nationstar informed Ms. Palazzo that there would be a \$25 Expedited Payoff Statement Fee and she consented to the Expedited Payoff Statement Fee. Ms. Palazzo paid one \$25 Expedited Payoff Statement Fee.

1 21. Plaintiff Hackinen's loan is a private conventional loan. Mr. Hackinen requested
2 five payoff statements on an expedited basis. Nationstar informed Mr. Hackinen that there would
3 be a \$25 Expedited Payoff Statement Fee for each of the payoff statements he requested on an
4 expedited basis. Plaintiff Hackinen consented to the Expedited Payoff Statement Fees. Nationstar
5 provided five payoff statements to Mr. Salom on an expedited basis. Mr. Salom paid three \$25
6 Expedited Payoff Statement Fees.

7 22. Nationstar does not require payment of any Expedited Payoff Statement Fee to
8 release a lien. If a customer tenders the payoff statement amount without the expedited service fee,
9 Nationstar waives the expedited service fee and closes the account as paid in full.

10 23. In addition, Nationstar may waive the Expedited Payoff Statement Fee depending
11 on account-specific circumstances. There are many instances in which a customer who requests
12 and consents to pay a fee for expedited service does not pay the fee. For example, as set forth herein,
13 both Mr. Salom and Mr. Hackinen requested multiple expedited payoff statements and agreed to a
14 \$25 fee for each, but did not pay all of those fees.

15 24. An Expedited Payoff Statement Fee may be assessed to an account but not paid by
16 the customer. For example, such fees may be waived or refunded at a later point in time.
17 Determining whether an expedited service fee was actually paid—as opposed to assessed and
18 waived or paid and refunded—is a complex data inquiry that may include loan-level examination
19 of the account payment history and payoff amount.

20 25. Nationstar services more than five million loans nationwide, including those
21 originated by Nationstar and those originated by third-party lenders. Those loans are secured by
22 deeds of trust or mortgages located throughout the country. Because the terms of a home loan
23 typically is 15-30 years, and can be longer, I would expect that many borrowers entered into their
24 loans prior to the beginning of any class period proposed by Plaintiffs' counsel.

1 26. Nationstar services a multitude of different loan types, originated by different
2 lenders, and on behalf of different investors. The loans Nationstar services include loans originated
3 and/or owned by Fannie Mae, Freddie Mac, national banks, and federal savings associations. For
4 example, Wachovia originated Salom's loan, Fannie Mae was the investor; SunTrust originated
5 Palazzo's loan, Freddie Mac is in the investor; and First Horizon originated Hackinen's loan, and
6 Bank of New York Mellon was the investor.

7 27. These loans may be insured by the Federal Housing Authority ("FHA") and
8 governed by the Department of Housing and Urban Development ("HUD" regulations), by the
9 Veterans Administration ("VA"), other agencies, or may be private loans.

10 28. Although the Fannie Mae/Freddie Mac deed of trust is a common security
11 instrument, many Nationstar borrowers entered into security instruments that differ from the Fannie
12 Mae/Freddie Mac form. Security instrument forms have varied over time and according to the type
13 of loan, among other factors. As noted, the various types of mortgage loans serviced by Nationstar
14 include FHA residential loans, VA residential loans, conventional loans, home equity lines of
15 credit, and second liens, among others. Each of these loan types are documented in security
16 instruments that differ from the Fannie Mae/Freddie Mac form. Some of the loans serviced by
17 Nationstar are documented on forms drafted by other lenders or financial institutions. Each of these
18 varying security instruments have different contractual provisions, including different language
19 regarding the fees (such as expedited service fees) servicers may charge.

20 29. Further, as part of the ordinary servicing of delinquent accounts, Nationstar
21 routinely receives the assignment of mortgages or deeds of trust, such as occurred with Mrs.
22 Palazzo's mortgage, which was assigned to Nationstar and recorded on June 23, 2022. Determining
23 whether Nationstar is the assignee of a mortgage or deed of trust requires an individualized review
24

1 of each loan account, including a manual review of the loan documents housed in Nationstar's
2 systems.

3 30. As noted, the loans that Nationstar services are secured by varying security
4 instruments with different contractual provisions, and such provisions vary by loan type, originator,
5 and investor. Nationstar has no method by which it can determine the form of security instrument
6 securing a particular loan, other than by reviewing the security instrument itself. Because Nationstar
7 does not code an account to identify the form of the underlying loan documents, identification of
8 the form of the loan documents (e.g., note and deed of trust/mortgage) and their provisions requires
9 a manual review of the documents securing each loan.

10 31. Some borrowers, like Plaintiffs, entered into Fannie Mae/Freddie Mac Uniform
11 Security Instruments. Section 20 of the version of Fannie Mae/Freddie Mac Uniform Security
12 Instrument provides as follows:

13 Neither Borrower nor Lender may commence, join, or be joined to any judicial
14 action (as either an individual litigant or the member of a class) that arises from
15 the other party's actions pursuant to this Security Instrument or that alleges that the
16 other party has breached any provision of, or any duty owed by reason of, this
Security Instrument, until such Borrower or Lender has notified the other party
(with such notice given in compliance with the requirements of Section 15) of such
alleged breach and afforded the other party hereto a reasonable period after the
giving of such notice to take corrective action.

17 Under Section 13 of the Deed of Trust, Plaintiffs agreed: "The covenants and agreements of this
18 Security Instrument shall bind (except as provided in Section 20) and benefit the successors and
19 assigns of Lender.

20 32. Nationstar's records cannot be queried or systematically searched to determine
21 whether any given borrower who entered into a Fannie Mae/Freddie Mac Uniform Security
22 Instrument gave Nationstar pre-suit notice of claims challenging the Expedited Payoff Statement
23 Fee. Instead, Nationstar would have to review all correspondence between Nationstar and each
24 borrower to determine whether the borrower complied with the provision requiring pre-suit notice.

